



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: General Elevator Co., Inc.

File: B-226976

Date: April 7, 1987

DIGEST

When a bidder, either by intent or mistake, specifies in its bid an acceptance period less than the minimum period expressly required by the government in the solicitation, the bid is nonresponsive on its face and must be rejected.

DECISION

General Elevator Co., Inc. protests the rejection of its low bid as nonresponsive under invitation for bids (IFB) No. F05611-87-B-0043, issued by the Department of the Air Force. The procurement is for elevator maintenance services at the United States Air Force Academy. General complains that the Air Force improperly determined that its bid was nonresponsive for offering a bid acceptance period less than the minimum 90-day period required by the government in the solicitation.

We dismiss the protest.

Incorporating the Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.214-16 (1985), "MINIMUM BID ACCEPTANCE PERIOD," the IFB stated at paragraph (c) of section K.5 that the government required a minimum bid acceptance period of 90 calendar days. Paragraph (d) of that section stated:

"In the space provided immediately below, bidders may specify a longer acceptance period than the Government's minimum requirement. The bidder allows the following acceptance period: _____ calendar days."

Paragraph (e) of section K.5 expressly cautioned bidders that a bid allowing less than the minimum required acceptance period would be rejected. Paragraph (f) set forth the bidders' agreement to do all that it had committed itself to do in its bid if: (1) its bid were accepted in writing within the government's required bid acceptance period or (2) within the longer period allowed by the bidder in paragraph (d).

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The Air Force rejected General's bid as nonresponsive for offering less than the required bid acceptance period because the firm had inserted the figure "60" in the blank provided at paragraph (d).

A bid acceptance period mandated in a solicitation is a material requirement which must be complied with at bid opening in order for the bid to be responsive. Cardkey Systems, B-220668, Jan. 29, 1986, 86-1 CPD ¶ 105; Central States Bridge Co., Inc., B-219559, Aug. 9, 1985, 85-2 CPD ¶ 154. Thus, when a bidder fails to specify in its bid that it is offering an acceptance period at least as long as that required by the government, the bid must be rejected. See Miles Metal Corp., 54 Comp. Gen. 750 (1975), 75-1 CPD ¶ 145.

Compliance with the required bid acceptance period is necessary so that all bidders share the same business risks of leaving their bids open for acceptance by the government for the same amount of time. An offeror who is allowed to specify a shorter acceptance period (regardless of whether by accident or design) would enjoy an unfair competitive advantage because it would be able to refuse the award after its bid acceptance period expired should it decide that it no longer wanted the award, for example, because of unanticipated cost increases, or extend its bid acceptance period after competing bids have been exposed. Legeay, Inc., B-218307, Mar. 22, 1985, 85-1 CPD ¶ 338.

A nonconforming acceptance period specified in a bid is not a minor irregularity or mistake which may be explained, changed, or corrected after bid opening. Central States Bridge Co., Inc., B-219559, *supra*; Bridgewater Construction Corp., B-214187, Feb. 14, 1984, 84-1 CPD ¶ 201. Although General asserts that it would be irrational for a bidder deliberately to provide less than the required 90-day period, the fact remains that General, by inserting the figure "60" in the paragraph (d) blank, legally committed itself to only a 60-day acceptance period, and any explanations for that action cannot be considered now after bids have been opened. McGrail Equipment Co., Inc., B-222091, Mar. 26, 1986, 86-1 CPD ¶ 293.

Moreover, contrary to General's position, it is of no consequence that the IFB here, by scheduling contract performance to begin on April 1, 1987, indicates that the Air Force intended to make the award immediately after the March 23 bid opening, and, hence, well within even a 60-day acceptance period. The contracting officer determined that 90 days was the minimum period necessary, *see* FAR, 48 C.F.R. § 14.201-6(j) (1986), and allowing General to offer a shorter

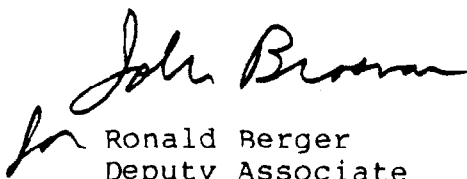
period--irrespective of when the apparently successful bid ultimately may be accepted--only compromises the government's right to that 90-day period and is unfair to the other bidders. Legeay, Inc., B-218307, supra.

Finally, we reject General's assertion that the provisions of FAR, 48 C.F.R. § 52.214-16, supra, as set forth in the IFB at section K.5, are ambiguous. In this regard, General has urged that its insertion of "60" in the blank at paragraph (d) stemmed from its interpretation of the paragraph as indicating to bidders that the blank was for the purpose of offering an additional period beyond the 90-day period required by the government. In other words, General argues that the "60" figure in paragraph (d) of its bid should be read as its offer of a 60-day period to be added to the prescribed 90 days, that is, a total acceptance period of 150 days.

General has clearly failed to show that its particular interpretation of the paragraph (d) language is reasonable and susceptible of the understanding the firm allegedly reached. See Energy Maintenance Corp., B-223328, Aug. 27, 1986, 86-2 CPD ¶ 234. Rather, we believe that paragraph (d) of section K.5, in context with the other related paragraphs of section K.5, has only one reasonable meaning--that the space provided was for the insertion of a figure greater -- than, but clearly not less than "90," if a bidder chose to offer a longer bid acceptance period. Otherwise, leaving the space blank simply meant that the bidder offered the required 90-day period. Nothing in the language of these provisions reasonably can be construed as indicating to a bidder that a figure inserted in paragraph (d) would be taken as the bidder's offer of an additive acceptance period.

Therefore, since General's submission has failed to state a valid legal basis for protest, we summarily dismiss the protest without requiring the Air Force to furnish a report in the matter. 4 C.F.R. § 21.3(f) (1986). Concomitantly, we decline to grant the firm's request for an administrative conference, 4 C.F.R. § 21.5, since clearly no useful purpose would be served. See Astrophysics Research Corp., B-224383, July 8, 1986, 86-2 CPD ¶ 42.

The protest is dismissed.


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